

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**JUL 28 2014**

**JAMES W. McCORMACK, CLERK**  
By: Solo  
DEP CLERK

**JANICE HASS**

**PLAINTIFF**

**v.**

**CASE NO. 4:14 cv 443 SWW**

**CAVALRY SPV I, LLC  
A Delaware Corporation**

**DEFENDANT**

**COMPLAINT**

COMES the Plaintiff, Janice Hass (Hass) by her attorneys, and for her Complaint against

Cavalry SPV I, LLC (Cavalry), states:

This case assigned to District Judge Wright

and to Magistrate Judge Volz

**INTRODUCTION**

1. The United States Congress has found abundant evidence of the use of abusive, deceptive and unfair debt collection practices by many debt collectors and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs and to invasions of individual privacy. Congress wrote the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et. seq. to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

2. Hass, by and through her attorneys, brings this action to challenge the actions of Cavalry, debt collectors, with regard to attempts by Cavalry to unlawfully and abusively collect a debt allegedly owed by Hass and this conduct caused damages to Hass.

**JURISDICTION AND VENUE**

3. Jurisdiction of this Court arises pursuant to 28 U.S.C. §1331 and 15 U.S.C.

§1692k(d).

4. This action arises out of Cavalry's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq.

5. The actions alleged in this Complaint occurred within the State of Arkansas.

6. Venue is proper pursuant to 28 U.S.C. §1391.

### **PARTIES**

7. Hass is a natural person who resides in rural Saline County Arkansas and is obligated or allegedly obligated to pay a debt and is a "consumer" as that term is defined by 15 U.S.C. §1692a(3).

8. Cavalry is registered with the Arkansas Secretary of State and is being served via its registered agent:

The Corporation Company  
124 West Capitol Avenue  
Suite 1900  
Little Rock, AR 72201

9. Hass alleges that Cavalry are persons who use an instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and are "debt collectors" as that term is defined in 15 U.S.C. §1692a(6).

### **FACTUAL ALLEGATIONS**

10. On October 24, 2013, Cavalry filed a lawsuit against Hass in the District Court of Pulaski County, Arkansas in an attempt to collect a delinquent debt. **Exhibit 1.** Hass did not answer the Complaint and a Default Judgment was entered against her on January 8, 2014.

**Exhibit 2.**

At the time the lawsuit was filed, Hass was a resident of Saline County, Arkansas. The Pulaski County filing was in violation of **15 U.S.C. §1692i** which requires that the debt collector bring any legal action on a debt against any consumer in the judicial district in which the consumer resided at the commencement of the action.

Although Hass' address is a Little Rock address, the residence is located in a rural section of Saline County according to the Saline County assessor's office. **Exhibit 3.** The lawsuit was served via process server at her residence in Saline County. Finally, a simple Google search shows Hass' address located in Saline County.

Attached to the Complaint filed by Cavalry is an affidavit signed by Bianca Perez, a representative of Cavalry Portfolio Services, LLC. According to the affidavit, the principal amount owed is \$940.36 and \$410.02 of "other charges." Further, the affidavit claims the balance continues to accrue interest at a rate of 0%.

However, the Complaint states the principal amount owed is \$940.36 plus pre-judgment interest "as set out in Plaintiff's Affidavit." It appears the Complaint is referring to the amount of \$410.02 as pre-judgment interest even though the affidavit states the interest accrual is 0%. The affidavit does not explain what "other charges" are.

Further, the Pulaski County Complaint filed by Cavalry did not contain the account agreement upon which it is based its lawsuit in violation of Rule 10(d) of the Arkansas Rules of Civil Procedure; therefore, there is no contractual basis for the "other charges" contained in the affidavit.

By not attaching the contract upon which it sued in violation of Rule 10(d), Cavalry made a false representation of the character, amount, or legal status of the debt in violation of **15**

**U.S.C. §1692e(2)(A).** By claiming “other charges” are owed with no contractual basis, Cavalry has misrepresented the character and amount of the debt in violation of **15 U.S.C. §1692e(2)(A).** Cavalry has violated **15 U.S.C. §1692e(10)** by making false representations and engaging in deceptive means in attempting to collect the debt by its inability to document any agreement between Hass and any creditor in violation of Rule 10(d) of the Arkansas Rules of Civil Procedure.

The attached affidavit states that the debt became delinquent on April 30, 2010. As Cavalry presented no evidence of a written agreement between Hass and any creditor, the Pulaski County lawsuit was a debt on an open account for which a three year statute of limitation applies pursuant to Arkansas Code Annotated §16-56-105. As the Pulaski County lawsuit was filed more than three years after the date of delinquency, Cavalry has taken action it cannot legally take in violation of **15 U.S.C. §1692e(5).**

Cavalry has violated **15 U.S.C. §1692e(10)** by making false representations and engaging in deceptive means in attempting to collect the debt by its inability to document any agreement between Hass and any creditor in violation of Rule 10(d) of the Arkansas Rules of Civil Procedure.

In its Pulaski County Complaint, Cavalry offered no evidence that it purchased an account held by Hass; therefore, Cavalry had no standing to sue Hass. As Cavalry lacked standing to sue Hass, it has taken action that it cannot legally take in violation of **15 U.S.C. §1692e(5).**

11. Cavalry’s conduct has violated the Fair Debt Collection Practices Act under the “unsophisticated debtor” standard and for which strict liability applies pursuant to **15 U.S.C. §1692.**

12. Cavalry's conduct violates the Fair Debt Collection Practices Act for which statutory damages apply pursuant to 15 U.S.C. §1692k(a)(2)(A).

13. Cavalry's conduct violates the Fair Debt Collection Practices Act for which actual damages apply pursuant to 15 U.S.C. §1692k(a)(1).

**DAMAGES**

14. Hass is entitled to the following damages:

- i. Statutory damages in the amount of \$1,000.00.
- ii. Actual damages for mental distress.
- iii. Attorney fees and costs.

**PRAYER FOR RELIEF**

15. Hass prays the Court enter judgment against Cavalry for her damages enumerated above and for all other relief to which she may be entitled.

**JURY DEMAND**

16. Hass demands a trial by jury.

Respectfully submitted,  
**COOK LAW FIRM, P.A.**  
8114 Cantrell Rd, Ste 100  
Little Rock, AR 72227  
Telephone: (501) 255-1500  
Facsimile: (501) 255-1116

J.R. Andrews, AR Bar No. 92041  
**CENTER FOR ARKANSAS LEGAL SERVICES**  
1300 W. 6<sup>th</sup> Street  
Little Rock, AR 72201  
Telephone: (501) 376-3423  
Facsimile: (501) 376-3664

  
Cecile Doan, AR Bar No. 2009246

IN THE DISTRICT COURT OF PULASKI COUNTY, ARKANSAS

CAVALRY SPV I, LLC

V.

CASE NO.

PCV 13-21225

JANICE M HASS

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DISTRICT COURT  
PULASKI COUNTY, ARKANSAS

COMPLAINT

Comes the Plaintiff and for its cause of action against the Defendant, states:

1. That the Plaintiff is a corporation authorized to bring this action under Ark. Code Ann. § 4-27-1501.
2. That the Defendant is a resident of Pulaski County, Arkansas.
3. Jurisdiction and venue are proper in this Court.
4. That Defendant purchased certain items with extensions of credit obtained on his/her BANK OF AMERICA/FIA CARD account. This account was purchased by, and assigned to the Plaintiff for good and valuable consideration.
5. That the amount past due on said account, which has not been paid, and has been owed for a period of time is as follows, principle amount, \$940.36, plus pre-judgment interest as set out in the Affidavit which is attached hereto and incorporated herein by reference.
6. That demand had been made for the payment of same, yet the balance remains unpaid.

WHEREFORE, Plaintiff prays for Judgment against Defendant in the amount of \$ 940.36, for all costs herein paid and expended, for pre-judgment and post-judgment interest at the common law rate, reasonable attorney's fees, and for all other proper relief.

Allen & Withrow  
Attorneys at Law  
P.O. Box 17248  
Little Rock, AR 72222

Teaven Stamatis  
Teaven Stamatis (2008064)



( AFFIDAVIT OF CLAIM (

STATE OF NEW YORK )

) SS

COUNTY OF WESTCHESTER )

RE: Cavalry SPV I, LLC


vs.


JANICE M HASS

I, Bianca Perez, being duly sworn on oath, depose and say:

1. I am an agent and duly authorized representative for Plaintiff and am competent to testify to the matters set forth herein.
2. I am acting in the capacity of Legal Administrator for my employer Cavalry Portfolio Services LLC, a Delaware limited liability company. Cavalry Portfolio Services, LLC performs recovery services for its affiliate, Cavalry SPV I, LLC. In performing recovery services for Cavalry SPV I, LLC, I am familiar with and have access to the books and records of Cavalry SPV I, LLC and of Cavalry Portfolio Services, LLC.
3. That the defendant, JANICE M HASS, the account holder(s), opened an account with Bank of America/FIA Card Services, N.A. on 3/20/2008, which account became delinquent and was charged off on 4/30/2010 (the "Account").
4. As of 6/13/2013, the balance due and owing by the account holder(s) on the account was \$1,350.38, which balance is comprised of \$940.36 of principal balance and \$410.02 + \$.00 + \$.00 of other charges. The principal balance continues to accrue interest at a rate of 0%. The account holder(s) have been credited for all payments, set-offs or other credits due.
5. That the Account was purchased by Cavalry SPV I, LLC on or about 1/27/2012.
6. In the normal course of business, Cavalry Portfolio Services, LLC maintains computerized account records for account holders. Cavalry Portfolio Services, LLC maintains such records in the ordinary and routine course of business and is charged with the duty to accurately record any business act, condition or event onto the computer record maintained for the accounts, with the entries made at or very near the time of any such occurrence. I have reviewed the applicable computer record as it relates to the Account, and I make this Affidavit based upon information from that review, and if called as a witness, I could testify to the matters set forth herein based on that review.
7. In connection with the purchase of the account, Bank of America/FIA Card Services, N.A. transferred copies of its electronic business records to Cavalry SPV I, LLC, which records were loaded into the computer system of Cavalry Portfolio Services, LLC and which are maintained in an electronic format.
8. Upon information and belief, no Defendant is an infant or incompetent or an active member of the United States Armed Forces who would be entitled to stay relief.
9. Under oath, I am authorized to make this affidavit for Plaintiff and I am informed and believe the above statements are true and correct.

Subscribed and sworn to before me on 8/22/2013

  
Legal Administrator

  
Notary Public, State of New York

Allen and Whitrow  
1729718

Daniel Brito  
Notary Public - State of New York  
No. 01BR6141638  
Qualified in Westchester County  
Commission Expires February 27, 2014

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PC DISTRICT COURT

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## IN THE DISTRICT COURT OF PULASKI COUNTY, ARKANSAS

CAVALRY SPV I, LLC

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PLAINTIFF

V.

CASE NO. PCCV-13-262 DISTRICT COURT  
PULASKI COUNTY ARKANSAS

JANICE M HASS

DEFENDANT

DEFAULT JUDGMENT

Now on this day this cause comes on to be heard, but the Defendant comes not, and this cause was submitted to the Court upon the Complaint, with the Exhibits thereto and filed herein, the summons issued herein against the Defendant and the return made to this Court thereon showing proper service for the time and in the manner as required by law, from all of which and other matters, proof and things before the Court, the Court doth find:

That the Defendant has been duly served with the summons for more than thirty (30) days allowed by law, that Defendant has failed to file a timely Answer within the thirty (30) days allowed by law, or to appear and defend, and the Defendant is indebted to the Plaintiff, as assignee of BANK OF AMERICA/FIA CARD, in the amount of \$940.36, plus pre-placement interest in the amount of \$410.02 to the date of 6/14/13, plus pre-judgment interest at the rate of ten percent (10%) per annum from the date received of 6/14/13 until Judgment is filed and post-judgment interest at the rate of ten percent (10%) per annum from the date Judgment is filed until paid in full, and for all its costs herein expended to date in the amount of \$120.00, plus any additional costs incurred during the enforcement of this Judgment.

IT IS THEREFORE BY THE COURT CONSIDERED, ORDERED and ADJUDGED that Plaintiff have of and recover from the Defendant the sum of \$940.36, plus pre-placement interest in the amount of \$410.02 to the date of 6/14/13, plus pre-judgment interest at the rate of ten percent (10%) per annum from the date received of 6/14/13 until Judgment is filed and post-judgment interest at the rate of ten percent (10%) per annum from the date Judgment is filed until paid in full, for all its costs herein paid and expended to date in the amount of \$120.00, plus any additional costs incurred during the enforcement of this Judgment, and a reasonable attorneys' fee in the amount of \$ 1500, for all of which execution may issue.



May 13 14 06:35p

Dorothy Bailey

501 841 9709

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**2013 Tax Statement****Saline County**

Joy Ballard  
Saline County Collector  
215 N. Main St, Suite 3  
Benton, AR 72015  
501.303.5620

2013 taxes payable from March 1, 2014 to  
Oct. 15, 2014 & delinquent Oct. 15, 2014  
For a receipt, please provide an email address

Details on back of statement.  
For a paper receipt, enclose a  
self-addressed stamped  
envelope.  
Change of address "on back."  
Pay online with "3% fee" at  
[www.salinecollector.ar.gov](http://www.salinecollector.ar.gov)

TP #: 9254403

50

20787

Provide your phone # \_\_\_\_\_



R & D Properties Llp  
5514 Springhill Rd  
Alexander, AR 72002-8421

Joy Ballard  
Saline County Collector  
215 N Main St Ste 3  
Benton, AR 72016-3763

Please detach and return the above portion with your payment

Page 1 of 1

Parcel Number	Owner Name	School District	Valuation	Millage	Description of Tax	Tax Amount	Total Tax
001-00149-000	R & D PROPERTIES LLLP	370	17710	41.90	Real Estate	742.05	
10530 WINBURY CV					East End Fire Distri	66.00	
08-028-12W 1.25 Acres PT FRL N/2 NENW							
2004-68225							\$807.05

**Total Mandatory \$807.05**

County Animal Control \$5.00

Weather Shen Improvement \$5.00

**Total with Voluntary \$817.05**

TAXING UNIT	Tax Dollars	Millage
Grant SD	\$570.28	0.03220
County General	\$88.55	0.00500
County Road	\$53.13	0.00300
County Library	\$30.11	0.00170
Other Tax	\$65.00	0.00000
<b>Total</b>	<b>\$807.05</b>	

2013 Tax Statement  
\*\*\* CONTINUED \*\*\*

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TO: 3763664

5018881100

MAY-14-2014 09:57 FROM: B&amp;T PALLET, INC.